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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-16503-2022

Date of decision : 25.08.2022

Ravinder Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Aman Pal, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.343 dated 19.12.2021 registered under Sections 420, 419, 467, 468, 471, 120-B of the Indian Penal Code, 1860 (Sections 201 and 205 of IPC and Section 8 of the Haryana Examination (Prevention of Unfair Means) Act, 2021 have been added later on) at Police Station Sadar Kaithal, District Kaithal.

On 22.04.2022, this Court had passed the following order:-

“Learned counsel for the petitioner inter alia contends that in the present case, the petitioner has been falsely implicated and he was not named in the FIR and even the secret information was not against the petitioner and even when the raid was conducted, it was not the petitioner who was apprehended and four persons namely Sanjay,

Sandeep, Rahul and Ashwani Pratap Singh were apprehended from whom the money had been recovered. It is further submitted that the said four persons had suffered disclosure statements in which, they have named co-accused Parvesh and Parveen and had not named the present petitioner. It is argued that even Parvesh had given his disclosure statement on 24.03.2022 (Annexure P-3) in which also, he had not named the present petitioner but had named the brother of the present petitioner i.e. Nirmal. It is further argued that it is only when Nirmal had applied for the concession of anticipatory bail, the State in its reply, without the presence of any incriminating evidence against the present petitioner, had stated that it was not Nirmal Singh but it was the present petitioner who was involved in the case. It is contended that several documents including Aadhaar Card, Driving Licence, Credit Card, Debit Card have been recovered at the time of raid from the spot but not even a single document of the petitioner was found there nor there is any kind of bank transaction or connection through phone, linking the petitioner to the alleged crime. It is further argued that as a matter of prevention, the petitioner is now sought to be involved in the present case on the basis of second changed disclosure statement of Parvesh. It is also submitted that the case of the present petitioner is on a much higher footing than the case of co-accused Parveen, as there are certain documents recovered which belonged to Parveen whereas, there was not even a single document of the petitioner recovered during the said raid. Moreover, a sim card was also recovered from the spot from Sanjay, which was issued in the name of said Parveen. It is also submitted that there were certain phone calls between Parveen and the main accused whereas, neither there were any such phone calls nor there is any such recovery qua the present

petitioner.

Notice of motion.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of State of Haryana and seeks time to get instructions.

Adjourned to 06.07.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 22.04.2022, the petitioner has joined the investigation.

Learned counsel for the State, has submitted that in pursuance of abovesaid order dated 22.04.2022, although the petitioner has joined the investigation but recovery of Rs.50,000/- paid by Parvesh in advance to the petitioner for passing the verification of biometric attendance is yet to be effected and thus, the custodial interrogation of the petitioner is also required for ascertaining the person involved in clearing the verification of biometric attendance of the candidates.

Learned counsel for the petitioner, in rebuttal to the abovesaid arguments, has submitted that a perusal of paras 23 and 24 of affidavit dated 01.07.2022 filed by Kulwant Singh, HPS, DSP (HQ), Kaithal, would show that it has been specifically stated that 16 accused persons have been arrested and all of them are on bail and the petitioner does not have any

criminal antecedents. It is further submitted that since, the petitioner did not receive any money, thus, question of recovery of the same from him would not arise and at any rate, the criminal proceedings cannot be initiated to recover the money.

This Court has heard the learned counsel for the parties and has perused the paper book.

The averments made in the order dated 22.04.2022 passed by this Court are not in dispute and as per affidavit dated 01.07.2022, more so paras 23 and 24, it has been stated that 16 accused persons have been arrested and all of them are on bail and that the petitioner is stated to be not involved in any criminal case.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 22.04.2022 and also the fact that the petitioner has joined the investigation, the present petition is allowed and the interim order dated 22.04.2022 is ordered to be made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

25.08.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**